



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,103	03/10/2004	Hiroshi Takiguchi	119037	2367
25944	7590	02/25/2008		
OLIFF & BERRIDGE, PLC			EXAMINER	
P.O. BOX 320850			STEELE, AMBER D	
ALEXANDRIA, VA 22320-4850			ART UNIT	PAPER NUMBER
			1639	
			MAIL DATE	DELIVERY MODE
			02/25/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Continued

The amendment filed January 29, 2008 under 37 CFR 1.116 in reply to the final rejection has been considered but is not deemed to place the application in condition for allowance and will not be entered because of the following:

- a. The proposed amendment requires further consideration and/or search (i.e. the new limitation “forming a composition” and “then bringing the solid phase substrate into contact with the composition” of independent claim 1; requiring a different order of method steps).
- b. The proposed amendment may necessitate the modification of outstanding rejection(s) to address the new limitation (i.e. the new limitation “forming a composition” and “then bringing the solid phase substrate into contact with the composition” of independent claim 1).
- c. The proposed amendment may necessitate the raising of new prior art rejections (i.e. the new limitation “forming a composition” and “then bringing the solid phase substrate into contact with the composition” of independent claim 1).
- d. The proposed amendment may necessitate the raising of new 112 issues (i.e. the new limitation “forming a composition” and “then bringing the solid phase substrate into contact with the composition” of independent claim 1).
- e. There is no convincing evidence under 37 CFR 1.116(b) why the proposed amendment was not earlier presented.
- f. Applicants arguments of the prior art of record are moot, in part, (i.e. arguments regarding the claim objections and the 35 USC § 102(b) rejection over Peterson) since the arguments are based on the proposed amendments that have not been entered (see below also).

g. For all the reasons above, the amendment does not place the application in better condition for allowance and/or appeal.

Arguments and Response

Applicants' arguments directed to the rejection under 35 USC 102 (e) as being anticipated by Bawendi et al. for claims 1-9, 11-13, and 17 were considered but are not persuasive for the following reasons.

Applicants contend that Bawendi et al. does not teach a ratio of 40/60 to 60/40 (i.e. dependent claim 8).

Applicants' arguments are not convincing since the teachings of Bawendi et al. anticipate the method of the instant claims. Bawendi et al. teach using one molar equivalent of 5' amine-labeled oligonucleotide in quantum dot formation, equimolar amounts of reagents, and molar equivalents of 1:1 (i.e. 50:50 ratio; please refer to the entire specification particularly Examples 1, 8, and 9).

Future Communications

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amber D. Steele whose telephone number is 571-272-5538. The examiner can normally be reached on Monday through Friday 9:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Schultz can be reached on 571-272-0763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ADS
February 15, 2008

/Jon D. Epperson/
Primary Examiner, AU 1639